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Protection of and assistance to internally displaced persons

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, in accordance with General Assembly resolution 62/153 and Human Rights Council resolution 6/32.

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Report of the Representative of the Secretary-General on the human rights of internally displaced persons

Summary

The present report provides a brief overview of the current situation of internal displacement and discusses the nexus between climate change and internal displacement. It also outlines the approach of the Representative to his mandate and his activities in the period from August 2008 to July 2009.

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I. Introduction

1. The present report is presented by the Representative of the Secretary-General on the human rights of internally displaced persons in accordance with General Assembly resolution 62/153 and Human Rights Council resolution 6/32.

2. Following a brief overview of the current situation of internal displacement and a discussion of the nexus between climate change and internal displacement, the report outlines the approach of the Representative to his mandate and his activities in the period from August 2008 to July 2009.

II. The current situation of internal displacement

3. At the beginning of 2009, the number of persons internally displaced as a result of armed conflict, generalized violence or human rights violations across the world stood at approximately 26 million.[1] Reported returns of about 2.6 million people in 2008, particularly in the Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, Georgia, Iraq, Kenya, the Philippines, Sri Lanka, the Sudan, Timor-Leste, Uganda and Yemen, were outweighed by the new internal displacement of about 4.6 million people during the same period. New internal displacement was reported mainly from the Philippines (600,000 persons), the Sudan (550,000), Kenya (500,000), the Democratic Republic of the Congo (at least 400,000), Iraq (360,000), Pakistan (over 310,000), Somalia (300,000), Colombia (270,000), Sri Lanka (230,000), India (over 220,000) and Georgia (128,000).

4. The first half of 2009 has seen more internal displacement, particularly in Sri Lanka, with almost 300,000 persons displaced during the course of the Sri Lankan army's operation against the Liberation Tigers of Tamil Eelam, and in Pakistan with up to 2 million persons[2] displaced in the context of armed operations against Taliban militants in the north-west of the country. New internal displacement linked to generalized violence, conflict and in some cases also serious violations of international humanitarian law were reported from a number of other places, including (in alphabetical order) the Central African Republic, Colombia, the Democratic Republic of the Congo, the Occupied Palestinian Territory,[3] the Philippines, Somalia and the Sudan.

5. The Representative is concerned about the situations of internally displaced persons in protracted displacement, where the process to find durable solutions has stalled and the displaced are marginalized by disregard for or failure to protect their human rights, in particular economic, social and cultural rights. At present, some 35 countries have significant numbers of internally displaced persons living in protracted situations.[4] The phenomenon affects Europe in particular, where 99 per

[1] The figures in this paragraph are according to the Internal Displacement Monitoring Centre, Internal displacement: global overview of trends and developments in 2008 (April 2009), p. 9. They are also available at: http://www.internal-displacement.org/.

[2] Office for the Coordination of Humanitarian Affairs Pakistan situation report, 17 July 2009.

[3] See the Representative's contribution to the combined report of nine special procedures pursuant to resolution S-9/1 (2009) on the situation in the Occupied Palestinian Territory (A/HRC/10/22), paras. 80-88.

[4] Internal Displacement Monitoring Centre, idem.

cent of the continent's 2.5 million internally displaced persons fled their homes some 15 to 35 years ago as a result of conflicts arising from rejected independence claims, activities of armed non-State actors and territorial disputes.

6. In addition to those displaced by conflict and violence, an estimated 36 million persons were displaced in 2008 worldwide as a result of natural disasters, but reliable figures do not exist in the absence of an agreed methodology and global system to record displacement that is not related to conflict.

7. In many cases, internal displacement is not inevitable, but States fail to protect persons in their countries with due diligence from the consequences of armed conflict, natural hazards or violence carried out by armed non-State actors. In some cases, arbitrary displacement also results from a failure of State actors to scrupulously respect human rights and international humanitarian law and related impunity for individual perpetrators. Persons facing multiple, intersecting layers of discrimination are often particularly vulnerable to arbitrary displacement and it is no coincidence that ethnic minorities, and in some countries, indigenous peoples, are among the main groups affected by internal displacement.

8. Internally displaced persons often face serious protection challenges. Attacks on internally displaced person sites and individual internally displaced persons, including sexual violence, and the forced recruitment of displaced children into armed groups, are among the most serious concerns. Other challenges may appear less grave, but can still impose considerable hardship on internally displaced persons. For instance, legal requirements with regard to documentation or residence that may be acceptable for non-displaced persons often create insurmountable obstacles for internally displaced persons and cut off their access to key goods and services guaranteed by human rights, such as health, education, property, participation in public affairs, etc.

9. The Representative is encouraged by the fact that an increasing number of States are deciding to address the challenges of internal displacement through specific laws and policies. Regional organizations are increasingly pressing member States to adopt such laws and policies, which is another positive trend. The development in Africa is particularly noteworthy. The member States of the International Conference of the Great Lakes Region have already adopted a Protocol on the Protection and Assistance to Internally Displaced Persons, which entered into force in June 2008 and, with the accession of the Sudan, has nine State parties. The African Union plans to hold a Special Summit on Refugees, Returnees and internally displaced persons in Africa, where heads of State and Government gathered in Kampala, from 18 to 23 October 2009, will hopefully adopt the African Union Convention for the protection and assistance of internally displaced persons in Africa. In Europe, the Parliamentary Assembly of the Council of Europe recently adopted its important resolution 1877 (2009) entitled "Europe's forgotten people: protecting the human rights of long-term displaced persons".[5]

[5] Provisional edition available at: http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta09/EREC1877.htm.

III. Climate change and displacement

10. Even though global warming and the ensuing changes of climate as such do not trigger movement of persons, its effects have the potential to do so. The most recent findings of the Intergovernmental Panel on Climate Change[6] indicate that frequency and magnitude of climate-related disasters, such as flooding, hurricanes, desertification or even the "sinking" of stretches of land, are likely to increase as a consequence of global warming, and thus will displace an ever-increasing number of persons.

11. It is believed that, due to the effects of climate change, between 50 and 250 million people[7] may move by the middle of the century, either within their countries or across borders, on a permanent or temporary basis. While some of these movements will be voluntary, for example, triggered by the prospect of finding a better life in areas not negatively affected by the impacts of climate change as part of a strategy of communities, families and individuals to adapt to the effects of changing climate, many will be forced to leave their homes, whether due to the sudden-onset hydro-meteorological disasters or the slow-onset environmental degradation. The majority of the affected populations are likely to remain within the borders of their country of origin and, consequently, are considered internally displaced persons.

12. The many millions forcibly displaced by the effects of climate change will require substantial protection and humanitarian assistance because displacement creates specific new, or exacerbates pre-existing, vulnerabilities. The specific needs of persons affected by climate change have to be addressed to prevent arbitrary displacement, to protect their rights during displacement and to find durable solutions to their displacement. However, the experience of the past years indicates that sudden-onset disasters or environmental degradation not only displace an increasing number of persons, but all too often, insufficient attention is paid to the multiple human rights challenges they may face during displacement. More often than not, these human rights consequences are a result of inadequate or inefficient policies, due to a lack of awareness of States and of humanitarian and human rights actors.

13. Particular human rights challenges for the displaced as well as for the authorities concerned also arise in the context of evacuations before and during disasters, relocations because return to the original place of residence is not possible or too dangerous and, more generally, the search for durable solutions for those among the displaced who cannot return and resume their normal lives in the immediate aftermath of a disaster.

14. These observations led the Representative to review relevant existing legal frameworks and to identify typical human rights protection challenges which persons displaced or at risk of displacement due to the effects of climate change may face. Through the Inter-Agency Standing Committee, the Representative contributed to providing conceptual clarity for the humanitarian community on the

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[6] See the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) "Climate Change 2007" available at: http://www.ipcc.ch/ipccreports/assessments-reports.htm.

[7] In the First Assessment Report of IPCC (1990), it was noted that the greatest single impact of climate change might be on human migration and it was estimated that by 2050, 150 million people could be displaced by climate change-related phenomena, such as desertification, increasing water scarcity, and floods and storms. More recent studies refer to estimates for the same period of 200 million (Stern Review 2006) and 250 million (Christian Aid (2007), *Human tide: the real migration crisis*).

normative frameworks applicable for the protection of those displaced by the effects of climate change and guidance on how to address these typical protection challenges.[8]

15. In cooperation with the Inter-Agency Standing Committee members, the Representative remains engaged with State parties to the United Nations Framework Convention on Climate Change, in order to inform their negotiations for a new framework that shall be adopted in December 2010 in Copenhagen and that will replace the Convention-related Kyoto Protocol which will expire in 2012, on the humanitarian consequences of global warming, including issues related to internal displacement.

16. Based on the Representative's typology on climate change-related displacement scenarios and his gap analysis of normative frameworks to protect persons displaced by the effects of climate change,[9] three joint papers on climate change, displacement and migration were submitted to the secretariat of the Convention.[10] The following paragraphs provide a detailed summary of the Representative's observations and highlight some human rights challenges that might be faced by persons displaced by the effects of climate change, in particular in the context of evacuations and relocations, and when seeking durable solutions in the aftermath of a disaster.

A. Normative framework to protect persons displaced by the effects of climate change

17. Persons who are forced to leave their homes or place of habitual residence due to the effects of climate change and remain within their country are internally displaced persons.[11] The normative framework for their protection are the Guiding

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[8] Representative of the Secretary-General on the human rights of internally displaced persons (2008), *Displacement caused by the Effects of Climate Change: Who will be affected and what are the gaps in the normative frameworks for their protection?* Background paper submitted to the Inter-Agency Standing Committee Working Group at its 71st meeting held from 18 to 20 June 2008 and available at: http://www2.ohchr.org/english/issues/climatechange/submissions.htm.

[9] Ibid.

[10] Technical paper on "Climate Change, Migration and Displacement: Who will be affected?" submitted by the informal group on Migration/Displacement and Climate Change of the Inter-Agency Standing Committee on 31 October 2008 (http://unfccc.int/resource/docs/2008/smsn/igo/022.pdf); and submissions "Climate change, migration and displacement: impacts, vulnerability and adaptation options" by the International Organization for Migration, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations University (UNU), in cooperation with the National Research Council and the Representative, dated 6 February 2009 (http://unfccc.int/resource/docs/2008/smsn/igo/031.pdf) as well as "Forced Displacement in the context of Climate change" by UNHCR in cooperation with the Representative and UNU dated 19 May 2009 (http://unfccc.int/resource/docs/2009/smsn/igo/049.pdf) to the United Nations Framework Convention on Climate Change secretariat.

[11] Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex), 1998: "[...], internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border" (para. 2).

Principles on Internal Displacement which outline their specific rights inherent in and derived from international human rights and humanitarian laws. The Guiding Principles have been recognized by the international community as an important international framework for the protection of internally displaced persons that is applicable to any type of internal displacement, regardless of its cause.

18. The Guiding Principles stress that States bear the primary duty and responsibility to provide assistance and protection in all phases of internal displacement (principle 3), namely, to prevent displacement, to protect persons displaced by the effects of climate change and to find durable solutions for the displaced, in particular, those who cannot be allowed or expected to return to their homes or places of habitual residence considered too dangerous for inhabitation.[12]

19. Consequently, there is no normative gap, as such, to address internal displacement related to the impact of climate change. States should adhere to the Guiding Principles and strengthen their implementation when addressing internal displacement in this context.

20. However, with regard to slow-onset disasters and environmental degradation, there is a lack of criteria to distinguish clearly between voluntary population movements and forced displacement. In particular, in the context of gradual environmental degradation, some of the movement could be considered voluntary, for example, triggered by the prospect of finding a better life in areas not affected by extreme weather events, and thus be part of adaptation strategies. In other cases, however, a clearer element of coercion, including threats to life, health, property and livelihood, exists. Arguably, if a person would lack access to basic human rights protection as a consequence of an extreme weather event in the area of origin, and therefore cannot reasonably be expected to return, the person should be considered a victim of internal displacement and consequently should qualify for heightened assistance and protection in accordance with the Guiding Principles.

21. The Representative further observed that persons moving across an international border due to environmental factors would be entitled to general human rights guarantees in a receiving State, but would often not have a right of entry to that State. In particular, where persons are forcibly displaced across an international border, there is a major normative gap.

22. Unless the Government has consciously withheld or obstructed assistance in order to punish or marginalize them on one of the five grounds specified in the 1951 Convention related to the Status of Refugees, these persons are unlikely to qualify as refugees. Consequently, the terms "environmental refugee" and "climate refugee" have no legal basis in international refugee law and are to be avoided in order not to undermine the international legal regime for the protection of refugees;[13] they are equally inappropriate for those displaced within their country.

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[12] General Assembly resolutions 60/1, para. 132; 60/168, para. 8; 62/153, para. 10, and Human Rights Council resolution 6/32, para. 6 (c).

[13] See technical paper on "Climate change, migration and displacement: who will be affected?" submitted by the informal group on Migration/Displacement and Climate Change of the Inter-Agency Standing Committee on 31 October 2008 to the United Nations Framework Convention on Climate Change secretariat (available at: http://unfccc.int/resource/docs/2008/smsn/igo/022.pdf).

23. The Representative is of the opinion that the risk of a vastly increasing number of persons forcibly displaced by the effects of climate change justifies recognition of responses to such displacement and its human rights and humanitarian consequences as measures necessary to adapt to climate change and to include them in the post-Kyoto instrument on climate change into the catalogue of adaptation measures.

B. Human rights challenges to protect internally displaced persons in the context of climate change: evacuations, prohibition of return, permanent relocations and durable solutions

24. Among the human rights problems faced by persons displaced by natural disasters[14] and the effects of climate change, the issue of forced evacuations and relocations is a particularly challenging one.

25. On the one hand, taking measures to reduce the effects of natural hazards on people is part of States' obligations under international human rights law. While States cannot be held responsible for disasters that occur, the right to life and other relevant human rights create positive obligations on States to take appropriate steps to safeguard the life, limb and property of those within their jurisdiction against the threats of disasters. If a disaster is foreseeable and the State is able to prevent ensuing threats to the life and property of persons, it has to take appropriate action in conformity with its human rights obligations under the right to life.[15] Failure of the State to protect the lives of its citizens would amount to a human rights violation if competent authorities knew or should have known about the danger and had the capacity to take life-saving measures. The duty to take life-saving measures to protect the right to life of its people may include the need to temporarily evacuate people or to relocate them from danger zones and prohibit them from returning to their homes as long as their safety and life would be at risk.

26. On the other hand, persons displaced or at risk of displacement by the effects of climate change enjoy freedom of movement, including the right to opt freely to return to their homes, to settle elsewhere in the country or to locally integrate at the place of displacement. The general rule is that States have a duty to respect such decisions. Persons should be provided with true and accurate information enabling them to make a free and voluntary decision.

27. Where a person agrees to be evacuated or relocated, the two human rights obligations go hand in hand. Tensions arise when people oppose such measures, even though authorities consider them necessary to protect their lives. Under international law, forced evacuations and relocations are not absolutely prohibited. Rather, the right to freedom of movement can be limited under certain strict conditions by the State in order to take life-saving measures. In doing so, the following generic requirements must be adhered to:

- Ensuring that a legal basis exists for the limitation of the freedom of movement through evacuation, relocation or prohibition of return. Such law

[14] For an extended discussion of this topic, see the report of the Representatives to the Human Rights Council on protection of internally displaced persons in situations of natural disasters, A/HRC/10/13/Add.1 (2009).

[15] European Court of Human Rights, *Budayeva and others v. Russia*, judgement of 20 March 2008.

has to be accessible, in particular, in areas of implementation and needs to be understandable for the people concerned. This enhances transparency and foreseeability and allows persons to prepare themselves for such events;

- Ensuring that the actual evacuation, relocation or prohibition of return serves exclusively the goal of protecting the safety of the persons concerned; and
- Ensuring that the evacuation, relocation or prohibition of return is necessary and proportional to this end and only resorted to if there are no other less intrusive measures.

Thus, whenever possible, the free consent of persons concerned must be sought before ordering such measures. Evacuations must not last any longer than absolutely necessary. In cases of permanent relocations, return can only be prohibited in very exceptional cases in which the area of return is indeed one with high and persistent risks for life or security, the remaining resources are inadequate for survival of returnees, the enjoyment of basic human rights cannot be guaranteed, all other available adaptation measures are exhausted, and the situation in the area of return can no longer be alleviated by protective measures.

28. Furthermore, any evacuations, prohibition of return and permanent relocations need to be carried out without discrimination and the only permissible distinctions are those made in order to take into account special protection needs.

29. Finding durable solutions for internally displaced persons remains crucial whether or not they could exercise their right to choose freely among the three durable solutions (return, local integration or settlement elsewhere in the country). The achievement of such solutions is a process through which the need for specialized assistance and protection gradually diminishes until an internally displaced person no longer has specific needs that are directly linked to his or her having been displaced.

30. States must act to make solutions sustainable. Some universal principles that facilitate the establishment of conditions which allow for durable solutions for internally displaced persons can be summarized as follows:

Information on the process, consultation with and participation of the affected communities. These measures help internally displaced persons to make a free and voluntary decision on whether to return, integrate locally where they had been displaced or evacuated to, or to relocate and integrate elsewhere in the country. In the case where return is not an option, forced relocations, which have a tendency not to be sustainable, should be avoided; rather, affected populations should be empowered with a sense of ownership of the process of finding a solution to their situation. Information has to be true and accurate, consultation processes truly representative and participation inclusive and possible from the very beginning.

Safety. Return areas as well as relocation sites should be safe from effects of secondary hazards and recurrent disasters and should thus be selected after a careful analysis and risk mapping have been undertaken jointly with the affected population.

Recovery of land and property upon return, including through settlement of property and land disputes. All internally displaced persons should have access to mechanisms for property restitution or compensation, whether or not they opt for return or another durable solution. In the case of prohibition of return, affected

persons must be provided with alternative housing and land or sufficient means to acquire such land and housing and with compensation for lost and damaged property in the case of arbitrary displacement.

Physical needs and livelihoods. Provision of proper housing and services, such as health care or education, is essential and continued access to livelihoods is critical. If access to former livelihoods is not possible, the creation of new livelihood opportunities is vital.

IV. Mandate and activities of the Representative of the Secretary-General

A. The mandate of the Representative

31. Paragraph 6 of Human Rights Council resolution 6/32 defines the following key objectives of the Representative's mandate:

- Address the complex problem of internal displacement, in particular by mainstreaming human rights of the internally displaced persons in all relevant parts of the United Nations system;
- Work towards strengthening the international response to the complex problem of situations of internal displacement and engage in coordinated international advocacy and action for improving protection and respect of the human rights of the internally displaced, while continuing and enhancing dialogue with Governments, non-governmental organizations and other relevant actors.

32. Working within his mandate, which will be up for renewal by the Human Rights Council in 2010, has allowed the Representative to make significant contributions to shaping the international framework on internal displacement that evolves around the Guiding Principles and, in close cooperation with member States, international organizations and other stakeholders, to tangibly improve the protection of the human rights situation of internally displaced persons in several cases.

33. Internal displacement is a multifaceted challenge. Effectively addressing it and ensuring that internally displaced persons enjoy their human rights requires activity on different fronts, namely, human rights promotion and protection, humanitarian action, recovery and development, peacebuilding and political activities. In accordance with his mandate, the Representative promotes a rights-based approach to internal displacement on the basis of a constructive dialogue with Governments and through extensive mainstreaming activities within the United Nations and regional organizations, in order to address the different angles of internal displacement with a view to improving the conditions of the displaced, preventing additional displacement and encouraging durable solutions. A rights-based approach distinguishes between right holder and duty bearer. It defines the responsibility of Governments on the basis of specific obligations under international law and ensures that internally displaced persons are seen as individuals with rights, rather than the object of charity. Human rights also provide legal obligations, benchmarks and principles relevant for the provision of humanitarian assistance to internally displaced persons for their reintegration through durable solutions and for their participation in political processes.

34. The mainstreaming aspect of the mandate, as well as the access and resources at his disposal to implement it, are essential to the work of the Representative. The nature of his mandate, situated at the heart of the United Nations system (as also indicated by its title), has allowed the Representative to benefit from privileged access, broad support and durable partnerships with United Nations institutions, member States and other stakeholders. Distinguishing features include the participation of the Representative in the Inter-Agency Standing Committee, the primary coordination mechanism for humanitarian assistance provided by United Nations and other humanitarian actors. The Representative is a standing invitee to the meetings of the Committee, which is the central forum of the wider humanitarian community for information exchange and policy development, and he regularly participates in meetings at the principal level. The Representative's participation in the Standing Committee is crucial to ensure that humanitarian policies take into account displacement concerns and to promote the human rights of internally displaced persons within the humanitarian community. The Committee is also the primary forum for the dissemination and promotion within the humanitarian community of policy guidance developed by the Representative.

35. The comprehensive humanitarian reform undertaken by the United Nations in 2005 has led to the establishment of global clusters that bring together United Nations and other key non-State humanitarian actors, develop policy guidance and support clusters at the national level to ensure a timely and effective humanitarian response. The Representative participates in the global clusters on protection and early recovery through his support staff. This participation ensures that responses to situations of internal displacement benefit from the expertise of the Representative, while he draws on the cluster expertise in the development of his own policy guidance tools.

36. The Representative has concluded memorandums of understanding with the Office for the Coordination of Humanitarian Affairs and the Office of the United Nations High Commissioner for Refugees (UNHCR). These memorandums not only improve the flow of information and exchange of expertise, but also allow the Representative to place support staff in both offices, which adds to the staff support he receives from the Office of the United Nations High Commissioner for Human Rights (OHCHR). UNHCR and Office for the Coordination of Humanitarian Affairs are key humanitarian actors in the United Nations system dealing with internal displacement and the coordination of related humanitarian assistance. The close interaction at the working level allows the Representative to introduce the human rights of internally displaced persons directly into the work of these organizations both at a policy and operational level. On the basis of their close cooperation at headquarters, OHCHR, UNHCR and the Office for the Coordination of Humanitarian Affairs work as partners, thereby allowing the Representative to carry out a substantial number of official fact-finding missions, follow-up visits, working visits and other initiatives. This inter-agency cooperation, which combines the complementary strengths of the different agencies, also improves the monitoring and follow-up to country-specific recommendations made by the Representative and ensures integration in regular programming.

B. Country missions

37. Between August 2008 and July 2009, the Representative of the Secretary-General conducted country missions to Chad, the Democratic Republic of the Congo and Georgia, at the invitation of the respective Governments.

38. The Representative's repeated requests to carry out missions to the Philippines and to the Sudan in 2009 had unfortunately not yet resulted in invitations from the Governments concerned at the time the present report was finalized. The Representative wishes to underscore that he remains interested in carrying out missions to both countries at the earliest convenience. In the light of the dramatic displacement situation in Somalia, where an estimated 1.3 million persons remain internally displaced as a result of serious human rights violations, armed conflict and violence, the Representative also hopes to carry out a visit to that country during the remainder of 2009. In addition, the Representative envisaged visiting Pakistan and remains committed to engaging with the Government to ensure adequate support and protection of all persons of concern to his mandate in Pakistan.

1. Georgia

39. In the aftermath of the South Ossetia conflict, the Representative visited Georgia from 1 to 4 October 2008.[16] As a result of the hostilities that escalated on 7 and 8 August 2008, some 133,000 persons became displaced within Georgia. A large majority were able to return to the Shida Karli region and areas adjacent to the administrative border with the Tskhinvali region/South Ossetia until the end of 2008. Their main needs related to the challenge of recovery after return, including safety (such as humanitarian mine clearance) and the re-establishment of law and order. The reconstruction and repair of destroyed or looted houses, humanitarian assistance, and the re-establishment of basic services, such as education and health, were important concerns, as was the resumption of economic activities.

40. Government estimates of November 2008 indicated that 37,605 internally displaced persons would not return in the foreseeable future. The Representative commended the Government for its decision to provide housing for those internally displaced persons. However, he was concerned about the almost exclusive emphasis on the provision of infrastructure, and recommended that the Government develop a comprehensive integration policy with responses to the specific needs of internally displaced persons based on the whole range of their civil, cultural, economic, political and social rights.

41. The biggest challenge remained the integration of the approximately 220,000 internally displaced persons who have been living in protracted displacement for more than a decade. The Representative reiterated that no distinction should be made between this "old" generation and the "new" generation of internally displaced persons in the provision of protection and assistance.

42. The Representative acknowledges with appreciation that since his visit, the Government has adopted an action plan to improve, in particular, the housing conditions of those internally displaced persons in protracted displacement who still live in collective centres.

[16] For more details, see A/HRC/10/13, paras. 38-43, and A/HRC/10/13/Add.2.

43. Despite repeated requests, the Representative was unable to visit the Tskhinvali region/South Ossetia.

2. Democratic Republic of the Congo

44. The Human Rights Council, in its resolutions 7/20 and S-8/1, invited seven United Nations independent experts, including the Representative, to make recommendations on how best to assist technically the Democratic Republic of the Congo in addressing the situation of human rights, with a view to obtaining tangible improvements on the ground, taking also into account the needs formulated by the Government. The Council also underlined the need to examine urgently the current human rights situation in the east of the country, in particular, as it regards violence against women. The Representative, on behalf of the group of seven experts, carried out a visit to the Democratic Republic of the Congo from 17 to 23 January 2009, during which he held meetings with the Prime Minister and other senior officials in Kinshasa. He visited Goma (North Kivu), where he met with provincial authorities, United Nations representatives, non-governmental organizations, internally displaced persons and women survivors of sexual violence.

45. On the basis of their dialogue with the Government and other information gathered, the seven independent experts presented a report to the Human Rights Council with the finding that the general human rights situation in the Democratic Republic of the Congo remained a cause for serious concern and that it had further deteriorated since the adoption of resolution 7/20 by the Council.[17] The experts found that in the east of the country, in particular, systematic and gross violations of the human rights of civilians and grave breaches of international humanitarian law, were taking place. They specifically highlighted concerns relating to forced and arbitrary displacement, the effect of the humanitarian crisis on economic, social and cultural rights, violence against women and girls, the situation of human rights defenders and the impact of the armed conflict on children in the eastern Democratic Republic of the Congo. Impunity, the existence of non-State armed actors, the present weaknesses of the security and justice sectors, the illegal exploitation of natural resources, the political instrumentalization of ethnic cleavages and the lack of equality between men and women were root causes of human rights-related concerns.

46. Based on their assessment of the situation, the seven thematic special procedures formulated eight priority objectives and identified technical assistance needs in that regard:

1. Fighting impunity and strengthening the law enforcement and justice sectors;
2. Reforming the security sector;
3. Preventing the (re-)recruitment of children by armed groups and socially reintegrating children associated with armed groups;
4. Protecting women's rights and ensuring gender equality;
5. Addressing economic root causes of human rights violations;
6. Protecting the rights of the displaced persons and minorities;

[17] See A/HRC/10/59, summary and sect. II.

7. Providing access to health care, especially for marginalized groups;

8. Strengthening State and civil society structures to protect and promote human rights.[18]

47. The Representative remains committed to working with the Government of the Democratic Republic of the Congo on the basis of resolution 10/33 (2009) of the Human Rights Council, which extended the mandate of the seven experts and requested that a follow-up report be submitted to it at the thirteenth session of the Council (March 2010). From the perspective of the Representative's mandate, the Government should prioritize the adoption of a law and policy on internal displacement, establish local land commissions to resolve destabilizing land conflicts between returnees and others, create a human rights vetting mechanism for security sector officers and implement other measures proposed in the report that would help to end serious human rights violations and grave breaches of international humanitarian law, which create more displacement.

3. Chad

48. From 3 to 9 February 2009, the Representative carried out an official mission to the Republic of Chad.[19]

49. Between December 2005 and the end of 2007, large numbers of people in the eastern part of Chad were displaced, mainly because of attacks by the Janjaweed across the border from Darfur. Today, tensions between different communities, exacerbated by competition for access to limited resources, including water and arable land, growing bandit activity and clashes between the Chadian armed forces, and rebel groups, continue to keep many Chadians away from their villages in the region bordering the Sudan. About 160,000 Chadians were internally displaced when the present report was finalized. The Dar Sila and Ouaddaï regions in the east have been particularly affected.

50. The Representative is concerned about the recruitment of displaced children and instances of gender-based violence at internally displaced person sites, and the high level of crime that occurs with complete impunity and which is perpetrated against internally displaced persons as well as humanitarian actors. The Government of Chad needs to do everything necessary to restore and reinforce without delay a State presence at all levels in the areas affected by displacement, in particular a judicial system, a police presence and basic services, such as education, health care and economic reintegration. Mechanisms for conflict resolution and reconciliation among local communities also need to be strengthened.

51. Long-lasting displacement is a huge burden on host families and tensions arise between the displaced and their host communities, mainly over natural resources. While a few displaced persons decided to return spontaneously, despite the precarious security conditions and the lack of access to basic services in areas of return, the conditions to sustain these returns are not yet in place. In this context, it is important to strengthen early recovery efforts aimed at creating the necessary conditions for achieving durable solutions and to provide displaced persons with a

[18] Ibid., sect. III.

[19] See A/HRC/10/13/Add.4.

voluntary choice as to whether they want to integrate at the place of refuge or elsewhere in the country, or return to their place of origin.

52. The Representative is convinced that, without a domestic peace process in Chad which brings the Government, representatives of the different Chadian communities and the political as well as armed opposition groups together in political dialogue, and in the absence of a settlement to the conflict in Darfur, the situation in the east of the country might deteriorate at any time, creating further waves of displaced persons. In close cooperation with the United Nations Development Programme (UNDP) and the Office for the Coordination of Humanitarian Affairs, the Representative intends to conduct a seminar later in 2009 for Government officials to discuss the creation of a recovery plan for the east of the country that would take into account the specific needs of internally displaced persons living in such a volatile security environment.

C. Working visits and follow-up activities

53. The Representative also conducted a number of visits to follow up on previous missions and working visits to provide technical advice to Governments and United Nations country teams. Between September and December 2008, he carried out follow-up visits to Colombia, Sri Lanka and Timor-Leste.[20] In 2009, he visited the Central African Republic, the Republic of Serbia, including a visit to Kosovo, Sri Lanka and Uganda.

1. Central African Republic

54. During his working visit to the Central African Republic (10-12 February 2009), the Representative noted substantial progress made since his official mission in 2007,[21] with the conclusion of an inclusive political dialogue and several peace agreements signed in 2008, the amnesty law and the formation of a new Government in early 2009. While those developments had paved the way for internally displaced persons to return, no large-scale return had taken place thus far and those who returned often did so under unsatisfactory conditions.

55. The Representative remains concerned about the precarious conditions of those who remain in displacement as a result of the conflict, as well as violent acts committed by criminal elements with complete impunity. The absence of a legislative framework for addressing displacement issues, as well as the lack of capacity of the Government to act were identified as important reasons for the ongoing problems encountered by internally displaced persons. The adoption of a law and a strategy on internal displacement covering all phases of displacement would be an important first step and the recent formation of an inter-ministerial taskforce for this purpose is an encouraging development.

56. Finding durable solutions for displaced populations is an important element of peacebuilding in the Central African Republic. The Representative submitted a number of recommendations to the country-specific configuration of the Peacebuilding Commission on how to incorporate displacement specific concerns

[20] See the reports on these visits in A/HRC/10/13, paras. 52-56 (Colombia), paras. 65-68 (Sri Lanka) and 69-70 (Timor-Leste).

[21] A/HRC/8/6/Add.1

into the peacebuilding framework. The Strategic Framework for Peacebuilding in the Central African Republic[22] reflects many of his recommendations, including the obligations under the protocols of the International Conference of the Great Lakes Region and the need to develop a comprehensive legal framework and strategy for internal displacement.

57. In a letter to the Government dated 20 May 2009, the Representative conveyed allegations and concerns regarding the conduct of hostilities during clashes between Government forces and armed rebel groups in the Central African Republic that were causing new displacement.

2. Sri Lanka

58. After his mission in December 2007 and his short visit in September 2008 for the National Consultations on Durable Solutions, the Representative returned to Sri Lanka for a working visit from 2 to 6 April 2009 to discuss with Government officials the situation of the displaced persons who had come out of the conflict zone in the north-east of the country. He visited the Omanthai Checkpoint and met with internally displaced persons at transit sites and camps in Vavunyia, including Menik Farm.

59. The Representative welcomes the continuation of the frank and constructive dialogue with the Government of Sri Lanka. He recognizes the efforts made by the Government, which has affirmed its fundamental responsibility to protect and assist internally displaced persons, as well as the substantial challenges faced by the Government in meeting those assumed obligations.

60. The Representative raised fundamental concerns with the Government. In particular, he stressed that the civilian character of the camps must be maintained and access of humanitarian agencies further facilitated in order to cooperate with the Government in meeting the humanitarian needs of the displaced population. He also emphasized the urgent need for a transparent procedure and criteria for screening internally displaced persons in accordance with international standards to allow for freedom of movement and release of displaced persons from the camps. The Representative recalled that Principle 12.2 of the Guiding Principles on Internal Displacement, which are based on international legal standards, provided that internally displaced persons "shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances".

61. The Government reassured the Representative at that time that all necessary measures would be undertaken to facilitate prompt and sustainable return. The National Consultations on Durable Solutions in 2008 were an important step in the efforts of the country and could be used to help identify and facilitate the conditions necessary for sustainable solutions to displacement.

62. On 15 May 2009, the Representative issued a press statement expressing his extreme concern about civilians being forced to stay in the conflict zone in Sri Lanka, as well as the continued internment of internally displaced persons in camps. He underscored that such prolonged internment would not only amount to arbitrary detention, but that it also aggravated the dire humanitarian situation

[22] PBC/3/CAF/L.1.

needlessly. The Representative further specified his concerns in a letter shared with the Government prior to the release of the statement.

63. The Representative welcomed the Government's stated intention to devise an action plan endorsing fundamental principles and indicating clear benchmarks, criteria and timetables for screening displaced persons, registering them, enhancing their freedom of movement and facilitating their return, and indicated his readiness to support the Government and the international community in their attempts to solve the current displacement crisis. When the present report was finalized, the Representative was not aware that an action plan addressing the above-mentioned issues had in fact been developed. As of 10 July 2009, a total of 278,051 internally displaced persons from the Vanni were still interned in camps and 4,329 were in hospitals, compared to only 5,483 internally displaced persons who had been released.[23]

64. The Representative underscores the urgency of proceeding with the development and implementation of an action plan and stands ready to support the Government and the international community in efforts to resolve the current displacement crisis and protect the rights of the displaced in accordance with international standards.

3. Serbia, including a visit to Kosovo[24]

65. From 28 June to 4 July the Representative carried out a visit in follow-up to a mission he had undertaken in 2005 to then Serbia and Montenegro.[25] During the course of the visit, the Representative met with internally displaced persons in Belgrade, Kraljevo, Pristina, Mitrovica/Mitrovicë and other locations, and was able to have an open and constructive dialogue with senior officials of the Government of Serbia, the Special Representative of the Secretary-General in Kosovo and other international actors, as well as the Kosovo authorities, including the President of Kosovo.

66. Many of the 200,000 persons initially registered as internally displaced from or within Kosovo in 1999 and subsequent years have yet to find a durable solution. The vast majority are persons of Serb ethnicity, although the Representative also met some internally displaced persons of Albanian ethnicity awaiting their return to northern Kosovo. In addition, there are several tens of thousands of Roma, Ashkali and Egyptian ethnicity who were internally displaced. They often remain in particularly difficult situations, not least since they formed part of a minority often living on the margins of society even before their displacement.

67. Only several thousand internally displaced persons have returned to or within Kosovo and it is uncertain how many returns have proven to be sustainable. The Representative noted with appreciation the stated commitment of all relevant authorities to allow and facilitate returns of internally displaced persons, regardless of their ethnicity. However, entrenched patterns of discrimination, lack of access to

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[23] Office for the Coordination of Humanitarian Affairs, Vanni internally displaced person situation (10 July 2009).

[24] Any reference to Kosovo, whether to the territory institutions or population is to be understood in accordance with Security Council resolution 1244 (1999) and the United Nations position of strict neutrality on the status of Kosovo.

[25] E/CN.4/2006/71/Add.5.

employment and livelihoods, too few schools for minorities and difficulties in repossessing property and having houses reconstructed still constitute chief obstacles to return. At the time of the Representative's visit, close to 800 internally displaced families had registered to return to or within Kosovo in 2009. This return programme is an important test case that will show whether the relevant authorities, including municipalities in return areas, are willing to accept and facilitate returns.

68. The Representative underscored that improved living conditions for internally displaced persons and their return at a later stage were not mutually exclusive, but that persons who had been able to re-establish a normal life in displacement and who then decided to return were far more likely to make their return sustainable. He notes with appreciation some improvements in the integration of internally displaced persons in Serbia. Programmes have started to help internally displaced persons to leave run-down collective centres and move to their own houses or flats and build livelihoods. However, bureaucratic obstacles, in particular cumbersome procedures for obtaining documents, continue to make it unnecessarily difficult for many internally displaced persons to access public services. Roma internally displaced persons who are not registered or lack an officially recognized address because they live in irregular settlements, face particularly grave deprivations of their economic, social and cultural rights.

69. The Representative is alarmed that several hundred Roma, Ashkali and Egyptian internally displaced persons are still living in camps in Northern Mitrovica/Mitrovicë in the immediate vicinity of toxic waste from a former lead mine that has been poisoning their blood for 10 years. In particular, internally displaced children are in a very critical health condition and the lead concentration in their blood far exceeds medically acceptable levels. The Representative calls upon all actors, national and international, to cooperate in a pragmatic manner and find, without any further delay, a durable solution at a safe and healthy location within Kosovo in close consultation with the group.

4. Uganda

70. From 13 to 17 July 2009, the Representative visited Uganda, following up on an earlier visit in 2006. During his field visit to the Acholi subregion, the Representative witnessed the impressive progress made in addressing the displacement situation, with the majority of the former 1.8 million internally displaced persons having left the camps and moved to transit sites close to their former homes or back to their villages. In particular, he commended the Government for its commitment to finding durable solutions for all the displaced persons and welcomed the progress made in restoring security and freedom of movement in northern Uganda.

71. Despite these positive developments, serious challenges remain. The Representative was concerned about the low impact of recovery and development activities in the north, in particular, with regard to the establishment of basic services, such as water, food, health or education, in return areas. This, as well as disputes over land and property hamper return movements and their sustainability. The Representative welcomed the Government's commitment to implement the Peace, Recovery and Development Plan without further delay and stressed its importance. He also called upon the international community to support and complement recovery efforts.

72. The food insecurity present at the time of the visit posed an additional risk to returning communities who already struggle to adapt to their new lives after a very long period in displacement. The Representative recommended to authorities and development partners that they undertake measures to restore long-term food security, in order to adapt to the challenges of changing climate patterns.

73. Finding durable solutions for extremely vulnerable individuals among the displaced population, in particular, those left behind in camps without support from their families, is the biggest remaining humanitarian challenge. The Representative calls for concerted efforts of returnee communities, local authorities and humanitarian agencies to reintegrate these individuals into their communities.

D. Cooperation with regional and international organizations

1. Inter-Parliamentary Union

74. On 9 April 2009, the Representative addressed the plenary of the 120th Assembly meeting of the Inter-Parliamentary Union held in Addis Ababa, with the general theme "Parliaments: building peace, democracy and development in times of crisis". The Representative stressed that national parliaments and their members played a key role in addressing the challenge of internal displacement. In affected countries, parliaments should contribute to recognizing and protecting the rights of internally displaced persons by highlighting their situation, incorporating those rights into domestic law through appropriate legislation, calling the executive branch of Government to account if it was taking the necessary action, and by lobbying for and approving the necessary budget allocations. Even parliaments in countries without armed conflict could take such steps, given the fact that every country could suddenly and unexpectedly be faced with displacement caused by natural or man-made disasters. Parliaments in donor countries should help to secure the much needed funds for emergency assistance and return programmes.

2. Council of Europe

75. On 24 June 2009, the Representative addressed the Parliamentary Assembly of the Council of Europe on the occasion of a general debate on long-term internal displacement, at the conclusion of which the Assembly adopted resolution 1877 (2009) on long-term displaced persons.[26] In his presentation, the Representative called upon member States of the Council of Europe to find new impetus to peacefully settle protracted conflicts in Europe, providing internally displaced persons with a voice in the peace processes and crafting peace agreements that addressed the rights, needs and interests of internally displaced persons. Insisting on their citizens' rights to return should not prevent Governments from improving the living conditions of the displaced and facilitating other durable solutions, namely local integration, especially if the political realities precluded returns in the foreseeable future. The Representative also called upon member States of the Council to review, enact and fully implement national laws, strategies and action plans that aimed at restoring the human rights of people in internal displacement, in accordance with Committee of Ministers recommendation (2006)06, the Guiding Principles, and binding human rights law.

[26] See, supra, para. 9.

76. The Representative highlighted the fact that, in Europe, poor housing, lack of employment opportunities and the absence of access to quality education were typically the dominant concerns, both during protracted displacement and after return. Protection of property left behind and, ultimately, its restitution or compensation, were often ignored, hindering internally displaced persons in their efforts to resume their lives and remaining a serious source of grievance and a trigger-point for future conflict.

3. International Conference of the Great Lakes Region

77. On 9 and 10 July 2009, the International Conference of the Great Lakes Region Executive Secretariat, together with the Representative, the Office for the Coordination of Humanitarian Affairs, OHCHR, the Internal Displacement Monitoring Centre and the Brookings-Berne Project on Internal Displacement, conducted a workshop on the implementation of the Protocol on the Protection and Assistance to Internally Displaced Persons which obliges States to incorporate the Guiding Principles into their domestic law and the Protocol on the Property Rights of Returning Persons to the Pact on Security, Stability and Development in the Great Lakes Region, which came into force in June 2008.

78. Burundi, the Central African Republic, the Democratic Republic of the Congo, Kenya, the Republic of the Congo, Rwanda, Uganda, the United Republic of Tanzania and Zambia participated with delegations that were led by the national coordinator of the International Conference of the Great Lakes Region process and included expert officials from relevant line ministries. The Government of South Sudan also sent an expert delegate. Austria and Switzerland, as members of the Group of Friends to the Great Lakes Process and key supporters of the workshop, participated as observer States alongside representatives of civil society and international organizations.

79. On the basis of expert presentations and an exchange of lessons learned in group work, the representatives of member States of the International Conference of the Great Lakes Region developed and adopted concrete recommendations for implementing the above-mentioned protocols on the protection of internally displaced persons and the property of returnees. The Representative is committed to working with individual International Conference of the Great Lakes Region member States on the basis of their legal duties and the follow-up recommendations to help in the development of national laws and policies.

E. Capacity-building and other activities

1. Guide for mediators on internal displacement

80. Finding durable solutions for the displaced is an important element of a successful peace process. The return of internally displaced populations is often used as a benchmark against which progress in post-conflict stabilization and peacebuilding is measured. Durable solutions, whether on the basis of return, local integration or settlement elsewhere in the country, can best be achieved if issues related to internal displacement are addressed in peace agreements. Internally displaced persons seldom have a voice in a peace process. Therefore, it is even more important for mediators to be aware of the relevant issues pertaining to internal

displacement and to be equipped to facilitate their integration into peace agreements.

81. The Representative therefore developed, in close cooperation with the Mediation Support Unit of the Department for Political Affairs and a group of experts in mediation and/or internal displacement, a guide for mediators on internal displacement. Consultations on a draft were held in Geneva and New York in late 2008, both with the humanitarian and mediation community as well as with Member States. The guide will be published in late 2009 by the United States Institute for Peace and the Brookings-Bern Project on Internal Displacement.

82. The guide provides advice on how to engage internally displaced persons in the different phases of a peace process and on the key displacement-specific issues that should be addressed in the text of peace agreements.

2. Central America and Asia natural disaster workshops

83. Together with the Brookings-Bern Project on Internal Displacement, the Representative continued the series of capacity-building workshops on protection in natural disasters, with two workshops held in Guatemala City and Bangkok. The goals of the workshops were to raise awareness on protection challenges in natural disaster situations, to develop strategies to strengthen protection and to cover protection gaps, building on the Inter-Agency Standing Committee Operational Guidelines on Human Rights and National Disasters.

84. In Guatemala, a regional workshop was held on 28 and 29 May 2009 with participants from El Salvador, Guatemala, Honduras, and Nicaragua. Participants were from both the human rights and the humanitarian sectors, including representatives from national Governments, the United Nations, the Red Cross and non-governmental organizations, as well as human rights actors from the Ombudsmen's offices. Participants not only developed a better understanding of protection in natural disasters, but also formulated concrete recommendations on how to strengthen the cooperation between human rights and humanitarian actors to address protection issues. They also developed a series of proposals on the integration of a rights-based approach to emergency relief into the regional strategic framework 2009-2011 developed by the regional coordination structure of the civil defence organizations.

85. In coordination with the Regional Office of the Office for the Coordination of Humanitarian Affairs for Asia and the Pacific, a regional workshop was held in Bangkok on 18 and 19 June 2009, with 53 participants from 13 different countries. The workshop focused on protection challenges in natural disasters, while emphasizing the prevention and response to discrimination and other human rights concerns. The workshop not only provided the opportunity to share knowledge and experience, but also motivated participants to incorporate and mainstream protection in natural disasters into their programming.

86. An additional workshop organized by the Brookings-Bern Project on Internal Displacement with participants from seven Asian countries was held on 9 and 10 April 2009 in Chennai, India.

F. Mainstreaming of the human rights of internally displaced persons in the United Nations system

1. Inter-Agency Standing Committee and global clusters

87. As noted above, the Representative and his staff participate at all levels of the Inter-Agency Standing Committee and the global clusters on protection and early recovery.

88. Within the Standing Committee, the Representative put an emphasis on the humanitarian implications of climate change during 2008. His contributions were central to the clarification of terminology and identification of legal gaps in the context of displacement caused by the effects of climate change. He co-authored three submissions to the United Nations Framework Convention on Climate Change secretariat on this topic and participated in an Inter-Agency Standing Committee-led side event at the climate change talks held in Bonn in June.

89. The Representative is also engaged in the global protection cluster working group and the cluster working group on early recovery. In close cooperation with both clusters and in close cooperation with UNDP and UNHCR as cluster lead agencies, the Representative has launched a process to revise the framework on durable solutions for internally displaced persons, a document setting out the basic tenets of how and under what conditions durable solutions can be achieved. Agencies and non-governmental organizations represented in both clusters are actively engaged in the process. The Representative expects to present the document to the Inter-Agency Standing Committee by the end of 2009 and will also share it with the Human Rights Council as an annex to his next report.

2. Office of the United Nations High Commissioner for Human Rights

90. In accordance with the request of the Human Rights Council, OHCHR provides support to the Representative and helps to ensure that his work and that of other special procedures of the Human Rights Council complement each other.

91. The Representative, the Brookings-Bern Project on Internal Displacement, the International Institute of Humanitarian Law in San Remo and OHCHR co-organized once again the annual course on the law of internal displacement to train high-level officials from different parts of the world. In addition, the Representative participated in a workshop, co-organized by OHCHR and the Brookings-Bern Project on Internal Displacement, on the role of African national human rights institutions in protecting the human rights of internally displaced persons in Nairobi.

3. Office for the Coordination of Humanitarian Affairs

92. The Representative worked closely with the Office for the Coordination of Humanitarian Affairs and the Under-Secretary-General for Humanitarian Affairs on specific country situations, such as those in Sri Lanka or Uganda. The Regional Office in Bangkok was the local partner for a regional workshop on protection in natural disasters, which was held on 18 and 19 June. The Office continues to provide logistical and other support for some of the Representative's country visits.

93. The Representative contributed to the development of the Global Advocacy Campaign on Internal Displacement, which was launched in December 2008 in New York and in March 2009 at Geneva.

94. The Office for the Coordination of Humanitarian Affairs developed new training for humanitarian coordinators on the use of legal frameworks in humanitarian coordination. The Representative made substantial contributions to the training material on the law on internal displacement and gave a lecture at the training session held in Turin on 25 June.

4. Office of the United Nations High Commissioner for Refugees

95. The relationship with UNHCR has grown increasingly productive and reflexive over the years. The Representative has supported the mainstreaming of internally displaced person protection by UNHCR through, for example, participating in its senior management learning programme on internally displaced persons.

96. The Representative continues to collaborate with country operations as follow-up to his missions and visits. He also welcomed the opportunity to consult actively with and serve as a resource to UNHCR headquarters and country operations, upon request.

5. Peacebuilding Commission

97. After previous engagement at the policy level, the Representative started to work with the Peacebuilding Commission on a concrete country situation, namely, the Central African Republic. While the Peacebuilding Commission was developing its Strategic Framework for the Central African Republic, the Representative visited the country in February. He made concrete proposals to the chairperson of the country-specific configuration of the Peacebuilding Commission and the Peacebuilding Support Office on how internal displacement could best be addressed in the Strategic Framework for the Central African Republic. The strategic framework that was approved by the Peacebuilding Commission on 6 May 2009 takes many of his recommendations into account.

6. Joint United Nations Programme on HIV/AIDS

98. The Representative had the opportunity to participate in the Joint United Nations Programme on HIV/AIDS (UNAIDS) Coordination Board Meeting of 22 June 2009, dedicated to the theme "People on the move: forced displacement and migrant populations" and gave a presentation on HIV/AIDS and the protection of the rights of internally displaced persons. His presentation stressed three issues: (a) prevention of and protection against HIV transmission in the context of being displaced and during displacement, particularly in camps; (b) non-discriminatory access of internally displaced persons to essential HIV prevention, treatment, care and support services with sufficient regard for privacy and confidentiality of their health-related data; and (c) non-discriminatory access of internally displaced persons with HIV/AIDS to other essential goods and services, in particular, food, water and sanitation, and shelter.

V. Conclusions and recommendations

99. **Internal displacement continues to be one of the world's major humanitarian and human rights challenges and many internally displaced persons experience serious violations of their human rights. It is important to**

translate the increasing recognition of the human rights dimension of internal displacement at the international and regional levels into effective action to protect the human rights of internally displaced persons at the national and local levels. This requires coherent laws and policies, capable coordination and implementation mechanisms and adequate financial and human resources. More needs to be done to mobilize political will and improve national frameworks to prevent internal displacement and protect the human rights of internally displaced persons. The Representative recommends that member States:

- Protect persons from internal displacement related to conflict or other violence by scrupulously adhering to their obligations under international human rights law and international humanitarian law, in particular, the obligation not to arbitrarily displace persons emerging from the two bodies of law;

- Exercise due diligence in protecting persons from violence and resulting arbitrary displacement by armed non-State actors, including criminal groups, while upholding other human rights obligations;

- Criminalize arbitrary displacement, at least to the extent that it amounts to international crimes, and bring all perpetrators to justice, regardless of their affiliation or rank;

- Protect persons from disaster-induced internal displacement and its consequences by adopting and implementing disaster-management laws, policies and mechanisms to protect persons from natural hazards, mitigate the negative effects of natural disasters and protect persons during and after natural disasters;

- Enhance the protection of displaced persons by adopting laws and policies on internal displacement that outline the specific duties of national actors, assign responsibilities among State institutions and establish adequate funding mechanisms. Laws and policies should be based on the Guiding Principles, which are consistent with and reflect international law;

- Establish processes and conditions to ensure that internally displaced persons can find a durable solution of their choice: return in safety and dignity and successful reintegration, successful local integration where they currently are or settlement or relocation elsewhere in the country and successful integration there. In this context, it is important that internally displaced persons have the opportunity to participate in the political processes that affect them and, in particular, that the voices of internally displaced persons are heard in peace processes and that peace agreements reflect the rights, needs and interests of internally displaced persons.

100. The nexus between the effects of climate change and internal displacement becomes increasingly apparent and there is a fear of more internal displacement in coming decades, although there is by no means a linear and monocausal relationship between both phenomena. The Representative commends the growing recognition by Member States that there is a clear link between the effects of climate change and displacement and, in accordance with the Guiding Principles, of their obligations to address internal displacement in this context.

101. At the same time, the Representative recognizes the nexus between poverty and natural disaster, the negative impact of which will be reinforced, as climate change is largely expected to affect the most those States that have least contributed to it. The Representative recommends that States closely cooperate to address this challenge. Developed countries should provide resources and expertise to assist the least developed countries in their efforts to adapt also to the human consequences of climate change, to protect persons displaced by the effects of climate change and to find durable solutions for displaced persons.

102. The Representative strongly encourages States to continue their engagement on these issues in the ongoing United Nations Framework Convention on Climate Change negotiations. The new international instrument that will hopefully emerge from these negotiations will be the cornerstone document for any major initiative related to climate change in the years to come. It is therefore of the utmost importance that the post-Kyoto instrument on climate change recognize the problem of displacement related to the effects of climate change and include adequate responses into the catalogue of adaptation measures.